

FILED
U.S. DIST. COURT
BRUNSWICK DIV.

IN THE UNITED STATES DISTRICT COURT 2005 SEP 22 P 4: 11
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

CLERK

U.S. DIST. CT. GA.

UNITED STATES OF AMERICA

v.

GENE MIDDLETON


CASE NO.: CR205-25

ORDER

Defendant filed a Motion to Dismiss the Indictment. After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Defendant asserts that 18 U.S.C.A. § 922(g)(1) does not contain a jurisdictional element which ensures that the possession of a firearm has any concrete tie to interstate commerce. Defendant also asserts that his alleged possession of a firearm on a "trapping trip in the deep woods of rural Georgia" is not an activity which substantially affects interstate commerce. (Doc. No. 31, p. 2.) Defendant alleges that the fact that the seized rifle may have traveled in interstate commerce at some time in the past is insufficient to permit Congress to make the intrastate activity of possession of a firearm by a convicted felon a federal offense. Defendant contends that application of § 922(g)(1) in this case is unconstitutional.

Defendant's Objections are without merit. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Defendant's Motion to Dismiss the Indictment (Doc. No. 19) is **DENIED**.

SO ORDERED, this 22 day of Sept., 2005.



JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA